

Central Valley Project Reform Act of 1995
Section-by-Section Summary of Changes to the CVPIA

DRAFT

Section 1: Short Title--

Central Valley Project Reform Act of 1995. Provides all amendments are to the Central Valley Project Improvement Act ("CVPIA"; P.L. 102-575, title 34).

Section 2: Purposes--

Sec. 3402(f) requires the Secretary to operate the Central Valley Project (CVP) and implement the requirements of the CVPIA in a manner that achieves a reasonable balance among CVP demands and obligations.

Section 3: Definitions--

Sec. 3403(a) targets CVPIA actions towards native species of concern (salmon and steelhead).
Sec. 3403(k) defines repayment and water service contractors to clarify exclusion of contracts containing terms or agreements for water rights settlements or water right exchanges.

Section 4(a): New Contracts--

Sec. 3404(a) establishes greater certainty regarding future contracts by allowing the Secretary to enter into new water supply contracts once appropriate environmental review has been completed and the Secretary has determined there is sufficient water to meet contractual and legal obligations.

Section 4(c)-(d): Renewal of Long-Term Contracts--

Sec. 3404(c) provides for successive 25 year renewal of existing long-term contracts, consistent with the 1956 Act applicable to other projects westwide authorizing successive contract renewals of 40 years.

Sec. 3404(c)(1) prohibits long-term renewals until completion of appropriate environmental review; Provides for interim renewal of existing long-term contracts for a term ending on the effective date of long-term renewal; Requires the Secretary to, upon request, amend the term of existing interim renewal contracts to reflect these amendments; Validates and ratifies contracts renewed between January 1, 1988 and October 30, 1992.

Sec. 3404(c)(3) an unnecessary and punitive "hammer", is deleted.

Sec. 3404(d) provides that contracts shall include, if requested, a provision to charge the contractor only for water actually delivered.

Section 5(a): Water Transfers--

Sec. 3405(a)(1) provides specific criteria for district oversight of transfer proposals to protect against adverse impact to the environmental, operational and financial integrity of the district and its water users (similar to language negotiated for State transfer legislation); Provides for Secretarial oversight of transfer proposals to assess environmental costs and benefits and to protect against adverse environmental impacts.

Sec. 3405(a)(4) clarifies that transfers, exchanges and banking arrangements which could have been conducted under the law in effect prior to the enactment of the CVPIA may still take place and are not subject to the CVPIA, and that CVPIA transfer authorities add to, and are not intended to impede, historical transfers, exchanges and banking arrangements; Makes clear that historical authority for Bureau approval of transfers, exchanges and banking programs exists outside of the CVPIA and water service contracts.

Section 5(b)-(e): Water Management and Conservation--

Sec. 3405(b) amends section title to clarify the obligation to *measure* surface water deliveries.
Sec. 3405(d) recognizes that despite the theoretical purpose of tiered pricing to increase irrigation efficiency/reduce water use, there is no such relationship in the real world, this application of tiered pricing is a punitive requirement, and in some cases a contradiction to sound water management practices (as an example, increasing block rate pricing discourages conjunctive use programs). This provision is deleted. [following sections are renumbered accordingly]
Sec. 3405(d)(1) directs the Secretary to reevaluate the current USBR water conservation guidelines, practices and policies; Specifically provides that the conservation guidelines and criteria may include only those management practices and conservation measures which (i) are demonstrated by the Secretary to achieve significant water conservation and efficient management of water resources without unreasonably burdening project contractors or their water users, (ii) are demonstrated by the Secretary to be practices or measures that are cost effective and economically feasible under applicable circumstances, and (iii) take into consideration the amount of water under contract with the project contractor, probable Central Valley Project water supply, economic resources, geography, and other factors relevant to that project contractor.
Sec. 3405(d)(3) establishes that water conservation plans shall be approved or disapproved by the Secretary within 90 days of submittal.
Sec. 3405(d)(4) consistent with State law, clarifies that water conserved accrues to the benefit of the contractor.
Sec. 3405(e) establishes that increased revenues in excess of the cost of service for CVP water transferred from agricultural to M&I use shall be covered to the Restoration Fund.

Section 6(a)-(b): Fish, Wildlife and Habitat Restoration--

Sec. 3406(a)(5) establishes that by pursuing the specific mitigation projects, programs and activities authorized by this section, the Secretary shall be deemed to have met the mitigation, protection, restoration and enhancement purposes established by this subsection (a), and so better defines the mitigation obligations of the CVP.
Sec. 3406(b)(1) provides a nexus between CVPIA fish restoration programs and the larger State program to restore anadromous fish production in the Central Valley; Establishes that the CVPIA fish restoration programs are meant to assist in meeting the doubling goals of the state program rather than operating as a redundant parallel program.
Sec. 3406(b)(2)(C) consistent with the 15 December 1995 Bay/Delta Agreement, affirms the reservation and management of eight hundred thousand acre-feet of CVP water for fish and wildlife purposes shall be available to meet Bay/Delta water quality standards and Federal Endangered Species Act requirements; Authorizes and directs reuse or diversion of any part of the eight hundred thousand acre-feet to Ag or M&I purposes after it has fulfilled its fish and wildlife obligations.

Sec. 3406(b)(18) is deleted, deferring resolution of striped bass issues to State programs such as actions taken pursuant to Bay/Delta water quality standards. [following sections are renumbered accordingly]

Sec. 3406(b)(22) establishes instream releases of water to the Trinity River of no more than three hundred forty thousand acre-feet per year for fishery purposes; Requires Congressional review and approval prior to changes in such instream flows.

Section 6(c): San Joaquin River--

Sec. 3406(c)(1)(A)-(B) establishes the Secretary's obligation to cooperate with the State of California in implementing programs, projects and activities directed towards achieving fish and wildlife goals on the San Joaquin River; Establishes a funding mechanism for such projects as they are identified.

Sec. 3406(c)(1)(C)-(D) confirms the intent of Congress to prohibit releases of water directly from Friant Dam, except for the specific obligations enumerated in this subparagraph (c); Establishes a surcharge on water delivered from the Friant Division of up to six million dollars per year.

Sec. 3406(c)(1)(E) provides for treatment of Friant Division obligations under State or other Federal law, as applicable.

Section 6(d): Refuge Water Supplies--

Sec. 3406(d)(3) establishes that costs associated with provision of Level 2 refuge water supplies shall be a nonreimbursable federal expenditure and that costs associated with Level 4 supplies shall be a federal nonreimbursable and state obligation at seventy five and twenty five percent, respectively.

Sec. 3406(d)(4) establishes shortage provisions for refuge water supplies of up to 25 percent when reductions are imposed on agricultural service contractors in the same CVP Division.

Sec. 3406(d)(5) authorizes and directs the Secretary to, within one year of enactment of these amendments to the CVPIA, construct or acquire from non-federal entities water conveyance and pumping facilities and capacity as necessary to implement the requirements of this subsection, and to cooperate with the State and the CVP contractors in immediate efforts to acquire necessary pumping and conveyance capacity from the State; Requires the Secretary to allocate additional water resulting from such acquisition of pumping and conveyance in a manner which avoids shortages to CVP water contractors and users.

Sec. 3406(d)(7)-(8) requires the Secretary to evaluate and update previously reported refuge water supply needs to assure that such reports accurately reflect reasonable dependable refuge supply requirements, and to adjust these amounts accordingly, if necessary; Requires that refuge water supplies be measured and managed according to water conservation plans and incorporating the same type of water conservation best management practices as is expected of other CVP water users.

Section 6(i): Purchase of Additional Water--

Sec. 3406(i) (a new section) establishes that supplemental water acquired by the Secretary for the purposes of the CVPIA (in addition to the 800 KAF, refuge supplies and Trinity River flows) shall be purchased in accordance with State law, and shall be nonreimbursable federal expenditures to the extent they are not funded through the Restoration Fund.

Section 7: Restoration Fund--

Sec. 3407(a)(1) provides for Restoration Fund collection and expenditure; To provide for allocation of Restoration Funds to programs and activities that will provide the most environmental benefit, the 67/33 percent split is deleted; The Secretary is prohibited from requiring "donations" to the Restoration Fund as a condition to contracting for storage or conveyance of non-CVP water pursuant to Reclamation laws (such as "Warren Act" or "Section 215" water).

Sec. 3407(a)(2) provides direction for the use of Restoration Funds collected from the Friant Division.

Sec. 3407(c)(2) provides for assessment and collection of Restoration Funds from CVP water and power beneficiaries; The unnecessary and punitive collection "hammer" is deleted.

Section 8: Additional Authorities--

Sec. 3408(j) provides that the existing requirement to develop a plan to increase the yield of the CVP to make up for the "upfront" water temporarily reallocated by the CVPIA for fish and wildlife purposes is a priority project.

Sec. 3408(k) clarifies that water rights confirmed or determined by judicial decree shall not be altered by the CVPIA; establishes that a certain judicial decree shall be deemed an existing long term contract, renewable pursuant to section 3404(c) of the CVPIA.